

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appn. No: 08/463,987
Applicant: George Goicoechea et al.
Filed: 06/05/1995
Title: BIFURCATED ENDOLUMINAL PROSTHESIS
TC/A.U.: 3738
Examiner: Michael J. Milano

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §§ 1.97 and 1.98 and to the duty of disclosure set forth in 37 C.F.R. § 1.56, the Examiner in charge of the above-identified application is requested to consider and make of record the references listed on the PTO/SB/08a and PTO/SB/08b forms submitted herewith.

Pursuant to 37 CFR 1.98(a)(2), a copy of the following references are enclosed:

CA 2,086,333
CA 2,158,373
CA 2 144 305 C
EP 0 346 564 A1
EP 0 357 003 A2
EP 0 466 518
EP 565 251 A1
EP 0 645 125
GB 1205743
GB 1491202
GB 2269104
FR 1602513
JP HO2-167178
JP 2-68052
JP HO3-133446
JP 4-500328
JP HO5-305092
JP HO5-509008
JP HO6-23031
JP HO6-7454
WO 83/03752
WO 90/15582
WO 91/17789

WO 92/06734
WO 97/09008
WO 98/27895

Notice of Opposition by Scimed Life Sciences, Inc. to European Patent No. 0 676 937 B

Opposition by William Cook Aps to European Patent No. 0 676 937 B

Verlag, "Interventional Radiology," Angiographic Management of Vascular Obstruction, pp. 692-699 (1990)

Yoshioka et al., "Self-Expanding Endovascular Graft: An Experimental Study in Dogs," AJR 15: pp. 673-676 (1988)

U.S. App. 08/051,728

Official Action in Canadian Application No. 2,182,982, issued by the Canadian Intellectual Property Office on March 30, 2006

Notice of Reasons of Rejection of Japan Patent Office Application No. HO6-104577 dated May 15, 2007

Notice of Reasons of Rejection of Japan Patent Office Application No. HO6-104574 dated May 15, 2007

Notice of Reasons of Rejection of Japan Patent Office Application No. H04-335171 dated April 24, 2007

Office Action in U.S. Patent Application Serial No. 10/692,886 dated March 17, 2009

Reference FR 1602513 is not in the English language. An English language translation of FR 1602513 is attached to it.

The following references are not in the English language: JP HO2-167178, JP 2-68052, JP HO3-133446, JP 4-500328, JP HO5-305092, JP HO5-509008, JP HO6-23031, and JP HO6-7454. According to the Japanese Patent Office, EP 0 346 564 (provided herewith) corresponds to JP HO2-167178; EP 0 357 003 (provided herewith) corresponds to JP 2-68052 ; EP 0 423 916A1 (previously submitted in this application) corresponds to JP HO3-133446; WO 90/15582 (provided herewith) corresponds to JP 4-500328; EP 0 539 237 (previously submitted in this application) corresponds to JP HO5-305092; WO 91/17789 (provided herewith) corresponds to JP HO5-509008; EP 0 508 473 (previously submitted in this application) corresponds to JP HO6-23031; and EP 0 565 251 (provided herewith) corresponds to JP HO6-7454. An English language Abstract is also attached to each of the references with the exception of JP H04-500328.

Although the information submitted herewith may be "material" to the Examiner's consideration of the subject application, their submission is not intended to constitute an admission that such information is "prior art" as to the claimed invention.

Table 1, below, identifies those references that are listed on the presently submitted PTO/SB/08a/08b, that have not been submitted previously in this application, and that have been applied by the USPTO or a foreign patent office in a related application (by virtue of a common priority claim).

Table 1.

Document Number	Date	Name
3,357,432	12/12/1967	C.H. Sparks
3,818,511	06/25/1974	Goldberg et al.
4,545,082	10/08/1985	Hood
5,236,447	08/17/1993	Kubo et al.
5,354,308	10/11/1994	Simon et al.
5,364,354	11/15/1994	Walker et al.
5,429,144	07/04/1995	Wilk
5,443,497	08/22/1995	Venbrux
5,489,295	02/06/1996	Piplani et al.
5,507,769	04/16/1996	Marin et al.
5,562,724	10/08/1996	Vorwerk et al.
5,562,728	10/08/1996	Lazarus et al.
5,571,170	11/05/1996	Palmaz et al.
5,575,817	11/19/1996	Martin
5,639,278	06/17/1997	Dereume et al.
5,645,559	07/08/1997	Hachtman et al.
5,653,743	08/05/1997	Martin
5,683,448	11/04/1997	Cragg
5,725,572	03/10/1998	Lam
5,741,325	04/21/1998	Chaikof et al.
5,800,456	09/01/1998	Maeda et al.
5,824,039	10/20/1998	Piplani et al.
5,843,175	12/01/19989	Frantzen, John J
5,871,536	02/16/1999	Lazarus
5,997,573	12/07/1999	Quijano et al.
6,589,277	07/08/2003	Fabiani et al.
6,613,073	09/02/2003	White et al.

CA 2,086,333	04/25/1991	Schneider (USA) Inc.
CA 2,158,373	10/27/1994	Pharmacyclics, Inc.
CA 2 144 305 C	02/02/1995	Cook Incorporated
EP 0 346 564 A1	12/20/1989	Medtronic, Inc.
EP 0 466 518	01/15/1992	Endovascular Tech. Inc.
EP 565 251 A1	10/13/1993	Cook Inc.
GB 2269104	02/02/1994	Taha R. Lazim
JP H02-167178	06/27/1990	Medtronic, Inc.
JP H05-305092	11/19/1993	Cook Inc.
JP H05-509008	12/16/1993	Richard Stack
JP H06-23031	02/01/1994	Endovascular Technologies, Inc.
JP H06-7454	01/18/1994	Cook Incorporated
WO 91/17789	11/28/1991	Richard Stack
WO 92/06734	04/30/1992	Ho Young Song

Table 2, below, identifies all references, including previously submitted references and references submitted herewith, that have been applied by the USPTO or a foreign patent office in an application related to the subject application (by virtue of a common priority claim). Thus, Table 2 includes among its identified references those previously listed above in Table 1.

Table 2.

Document Number	Date	Name
3,357,432	12/12/1967	C.H. Sparks
3,657,744	04/25/1972	Ersek
3,818,511	06/25/1974	Goldberg et al.
4,140,126	02/20/1979	Choudhury
4,545,082	10/08/1985	Hood
4,562,596	01/07/1986	Kornberg
4,655,771	04/07/1987	Wallsten
4,994,071	02/19/1991	MacGregor
5,064,435	11/12/1991	Porter
5,104,404	04/14/1992	Wolff
5,135,536	08/04/1992	Hillstead
5,236,447	08/17/1993	Kubo et al.
5,275,622	01/04/1994	Lazarus et al.
5,304,200	04/19/1994	Spaulding
5,314,472	05/24/1994	Fontaine

Document Number	Date	Name
5,354,308	10/11/1994	Simon et al.
5,354,309	10/11/1994	Schnepp-Pesch
5,360,443	11/01/1994	Barone
5,364,354	11/15/1994	Walker et al.
5,366,504	11/22/1994	Anderson et al.
5,370,683	12/06/1994	Fontaine
5,387,235	02/07/1995	Chuter
5,389,106	02/14/1995	Tower
5,397,345	03/14/1995	Lazarus et al.
5,405,377	04/11/1995	Cragg
5,429,144	07/04/1995	Wilk
5,443,496	08/22/1995	Schwartz et al.
5,443,497	08/22/1995	Venbrux
5,464,449	11/07/1995	Ryan et al.
5,489,295	02/06/1996	Piplani et al.
5,507,769	04/16/1996	Marin et al.
5,562,724	10/08/1996	Vorwerk et al.
5,562,726	10/08/1996	Chuter
5,562,728	10/08/1996	Lazarus et al.
5,571,170	11/05/1996	Palmaz et al.
5,575,817	11/19/1996	Martin
5,639,278	06/17/1997	Dereume et al.
5,645,559	07/08/1997	Hachtman et al.
5,653,743	08/05/1997	Martin
5,683,448	11/04/1997	Cragg
5,725,572	03/10/1998	Lam
5,741,325	04/21/1998	Chaikof et al.
5,800,456	09/01/1998	Maeda et al.
5,824,039	10/20/1998	Piplani et al.
5,843,175	12/01/19989	Frantzen, John J
5,871,536	02/16/1999	Lazarus
5,997,573	12/07/1999	Quijano et al.
6,589,277	07/08/2003	Fabiani et al.
6,613,073	09/02/2003	White et al.
CA 2,086,333	04/25/1991	Schneider (USA) Inc.
CA 2,158,373	10/27/1994	Pharmacyclics, Inc.
CA 2 144 305 C	02/02/1995	Cook Incorporated
EP 0 346 564	12/20/1989	Medtronic, Inc.

Document Number	Date	Name
EP 0 421 729	04/10/1991	Medtronic, Inc.
EP 0 423 916	04/24/1991	Cook, Inc.
EP 0 466 518	01/15/1992	Endovascular Tech. Inc.
EP 0 480 667	04/15/1992	Cook Incorporated
EP 0 481 365	06/22/1994	Schnepp-Pesch
EP 0 508 473	10/14/1992	Endovascular Technologies, Inc.
EP 0 536 164	04/14/1993	Schneider (USA) Inc.
EP 0 539 237	4/28/1993	Celsa LG Societe Anonyme
EP 0 540 290	05/05/1993	Advanced Cardiovascular Systems, Inc.
EP 0 556 850	08/25/1993	Endotech, LTD.
EP 0 565 251	10/13/1993	Cook Inc.
GB 2 269 104	02/02/1994	Taha R. Lazim
FR 2678508	01/08/1993	Celsa LG Societe Anonyme
DE 4 303 181	08/11/1994	Angiomed AG(DE)
JP H05-76554	03/30/1993	Endovascular Technologies, Inc.
JP H02-167178	06/27/1990	Medtronic, Inc.
JP H03-151983	06/28/1991	Medtronic, Inc.
JP 4-25755	02/28/1992	Japan Electron Control Syst Co Ltd.
JP H05-305092	11/19/1993	Cook Inc.
JP H05-509008	12/16/1993	Richard Stack
JP H06-23031	02/01/1994	Endovascular Technologies, Inc.
JP H06-7454	01/18/1994	Cook Incorporated
JP 7501476	02-16-1995	Schneider (USA) Inc.
WO 89/08433	09/21/1989	Lazarus
WO 91/17789	11/28/1991	Richard Stack
WO 92/00043	01/09/1992	Schneider (USA) Inc.
WO 92/06734	04/30/1992	Ho Young Song
WO 93/13825	07/22/1993	Munehiro Maeda et al.
WO 93/19703	10/14/1993	Schneider

Applicants would also like to direct the Examiner's attention to the related applications and patents listed in Table 3, below. In light of the proscription against double patenting, the contents of these applications and patents may be "material" to the Examiner's consideration.

Table 3.

Application	Date Filed	Patent No. or Publication No.	Applicant(s) Name
08/312,881	9/27/1994	pending	Goicoechea et al.
08/315,763	10/4/94	5,609,627	Goicoechea et al.
08/461,402	06/05/1995	Pending	Cragg et al.
08/461,513	6/5/1995	5,716,365	Goicoechea et al.
08/461,514	6/5/1995	5,693,086	Goicoechea et al.
08/462,272	6/5/1995	5,776,180	Goicoechea et al.
08/463,981	6/5/1995	5,800,508	Goicoechea et al.
08/463,991	6/5/1995	5,718,724	Goicoechea et al.
08/465,653	6/5/1995	5,683,450	Goicoechea et al.
08/662,484	6/13/1996	5,916,263	Goicoechea et al.
08/960,282	10/29/1997	6,051,020	Goicoechea et al.
08/961,548	10/30/1997	5,938,696	Goicoechea et al.
09/020,749	2/9/1998	6,117,167	Goicoechea et al.
09/313,593	5/18/1999	6,302,906	Goicoechea et al.
09/317,102	5/21/1999	6,165,213	Goicoechea et al.
09/387,696	8/31/1999	Unknown	Goicoechea et al.
09/427,310	10/26/1999	Pending	Goicoechea et al.
09/977,826	10/15/2001	2002-0019659	Goicoechea et al.
10/616,274	07/09/2003	2004-0106979	Goicoechea et al.
10/692,886	10/24/2003	2004-0098086	Goicoechea et al.
10/703,659	11/07/2003	2004-0098115	Goicoechea et al.
10/784,378	02/23/2004	2004-0167599	Goicoechea et al.
11/879,685	07/18/2007	2007-0265697	Goicoechea et al.

Finally, with respect to Applicants' claim of priority, Applicants would like to direct the Examiner's attention to the decision of the Board of Patent Appeals and Interferences (BPAI), dated July 27, 2001, in Interference No. 104,192; the Memorandum Opinion and Final Judgment of the United States District Court for the District of Columbia dated March 31, 2006 (Civil Action No. 01 CV 2015); and the Opinion of the U.S. Court of Appeals for the Federal

Circuit in No. 2006-1434 dated August 8, 2007. Copies of the BPAI decision, the Memorandum Opinion, the Final Judgment, and the Federal Circuit Opinion are attached.

In accordance with 37 C.F.R. § 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made.

More than three months have elapsed since the filing of the above-referenced application and a Final Action was mailed on April 21, 1997. On November 26, 1997, the PTO mailed a Communication which stated that all claims are allowable but that *ex parte* prosecution was suspended due to a potential interference. Applicants believe that the PTO's statement that all claims were allowable acted as a withdrawal of the Final Action. Therefore, Applicants believe this application should be considered not having had a final action for purposes of considering this information disclosure statement. See MPEP 609.04(b) II: ("If a final action, notice of allowance, or an *Ex parte Quayle* action is mailed in an application and later withdrawn, the application will be considered as not having had a final action, notice of allowance, or an *Ex parte Quayle* action mailed for purposes of considering an information disclosure statement.")

No subsequent Final Action or Notice of Allowance has yet been received and it is presumed that none has yet been mailed. Accordingly, the required fee set forth in 37 C.F.R. § 1.17(p) is provided herewith.

Respectfully submitted,

Joshua L. Cohen

Joshua L. Cohen, Reg. No. 38,040
Stanley Weinberg, Reg. No. 25,276

Enclosures: PTO Forms SB/08a and SB/08b
Transmittal Form
39 References

Dated: April 30, 2009

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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

April 30, 2009

Denise May c